IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2006

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM

C.R.P.(PD)No.914 of 2006
& MP No.1 of 2006

M/s Sri Bala Sastha Chemical,
rep. by its Proprietrix P.Leelavathi,
Door No.28, Subramaniam Road,
R.S.Puram, Coimbatore. .. Petitioner

Vs.

K.Ravi, Proprietor,
Sri Vinayaga Dyeing,
S/o Kaliappan,
(opposite to Economic Transport),
425, Sukrawarpet Street,
Coimbatore. .. Respondent

Civil Revision Petition under Article 227 of the Constitution of India against the order dated 23.02.2006 made in I.A.No.522 of 2005 in O.S.No.364 of 2004 on the file of Principal Subordinate Judge, Coimbatore.

For petitioner : Mr.K.Kalyanasundaram
For respondent : Mr.M.A.P.Thangavel

ORDER

The above Civil Revision petition is directed against the order of the learned Principal Subordinate Judge, Coimbatore, dated 23.02.2006 made in I.A.No.522 of 2005 in O.S.No.364 of 2004, in and by which, the learned Judge, after finding that the documents sought to be produced can be marked through PW1 himself, for which, there is no need to examine their office Manager on the side of the plaintiff, has dismissed the petition filed under Order VII Rule 14(3) and Section 151 of Code of Civil Procedure.

2. Heard both sides.

3. On going through the reasons stated in the affidavit filed in support of the application filed in I.A.No.522 of 2005 in O.S.No.364 of 2004, I am unable to accept the reasoning of the

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learned Judge. It is true that PW1, Proprietrix of petitioner/plaintiff, viz.,M/s Sri Bala Sastha Chemical, has been examined and her evidence is in part heard stage. At this stage, the plaintiff has filed the present petition seeking permission to entertain and receive the petition mentioned documents 1 to 6 as additional documents and exhibits and mark the same through their Manager. It is the claim of the petitioner/plaintiff that first of all, those documents are relevant to the issue in question and further, according to them, their Manager is more conversant with the contents of the documents and it would be easy for him to explain the same before the Court. In such circumstances, I am not able to understand by examining the Manager of the plaintiff, how the interest of the respondent/defendant would be affected. On the other hand, if the Manager is examined to mark those documents, the respondent/defendant is free to cross-examine him based on his defence. When such remedy/recourse is available, I am of the view that the learned Principal Subordinate Judge ought to have allowed the application filed by the petitioner/plaintiff. The conclusion and ultimate order passed by the Court below cannot be sustained. As such, the order dated 23.02.2006 made in I.A.No.522 of 2005 in O.S.No.364 of 2004 is set aside. The Civil Revision petition is allowed. No costs. Consequently, M.P.No.1 of 2006 is clsoed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Principal Subordinate Judge, Coimbatore.

2. The Record Keeper, VR Section, High Court, Madras.

1 cc to Mr.M.A.P.Thangavel, Advocate, SR.57536

hpr (co)

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